

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----	)	
	)	Docket No. 2020-0158
THE GAS COMPANY, LLC dba HAWAII	)	
GAS	)	
	)	
For approval of Petroleum Feedstock	)	
Agreement with Par Hawaii Refining, LLC,	)	
and to include costs in the Fuel Adjustment	)	
Clause of The Gas Company, LLC dba	)	
Hawaii Gas.	)	
_____	)	

THE HAWAII STATE ENERGY OFFICE’S  
MOTION TO PARTICIPATE WITHOUT INTERVENTION

AND

CERTIFICATE OF SERVICE

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THE HAWAII STATE ENERGY OFFICE’S MOTION TO PARTICIPATE  
WITHOUT INTERVENTION

The Hawaii State Energy Office (“State Energy Office” or “SEO”), by and through its Chief Energy Officer (“CEO”), and through its Deputy Attorney General, hereby move to participate without intervention in the matter before the Public Utilities Commission (“Commission”) or (“PUC”) in Docket No. 2020-0158, the Application of THE GAS COMPANY, LLC DBA HAWAII GAS ("APPLICANT" OR "HAWAII GAS"), for approval of Petroleum Feedstock Agreement with Par Hawaii Refining, LLC, and to include costs in the Fuel Adjustment Clause of The Gas Company, LLC dba Hawaii Gas. The SEO does not require a hearing on this motion.

Pursuant to Hawaii Administrative Rules 16-601-57(3)(A), the deadline for any interested person to file a timely motion to participate in this proceeding is twenty (20) days from the date of this Application. The SEO’s Motion to Participate without Intervention is timely filed.

The Applicant’s request for approval of a Petroleum Feedstock Agreement will touch on critical matters related to greenhouse gases (GHG) analysis, fuel supply security, and the State’s clean energy goals.

The Applicant has noted that it intends to submit a GHG lifecycle analysis prepared by ICF Resources, L.L.C. as soon as the analysis is complete and acknowledges that the Commission asked an electric utility to submit a GHG analysis to satisfy HRS 269-6(b) in a recent docket.

“The Commission has concerns that unless Hawaiian Electric conducts a GHG analysis for this Application it will affect the Commission's ability to carry out its mandate under HRS 269-6(b), in consonance with prior Hawaii Supreme Court decisions regarding HRS 269-6(b).”<sup>1</sup>

The Applicant’s Application highlights the potential for impacts on fuel supply security.

“Maintaining a safe and reliable source of feedstock to generate SNG is vital for Hawaii Gas’ utility customers.”

“As in 2016, the local refining environment remains in a constant state of uncertainty.” *Application* at 5.

“...supply reliability is critical during these uncertain times and, as such, Hawaii Gas believes the increase is reasonable under the current unprecedented circumstances...” *Application* at 9.

“Given the critical impact that feedstock has on Hawaii Gas’ ability to provide reliable and safe gas service to its Oahu customers, Hawaii Gas believes the 2020 Feedstock Agreement provides a fair and reasonable balance between necessity and affordability.” *Application* at 10.

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<sup>1</sup> See Docket No. 2020-0090, Order No. 37182, Notice of Status Conference, filed June 19, 2020, at 4.

“At this time, no other source of feedstock in sufficient quantity or of sufficient quality is readily available to Hawaii Gas for the period immediately following termination of the 2016 Feedstock Agreement;”

*Application* at 11.

The Applicant’s Application highlights the potential for impacts towards achievement of the State’s clean energy goals.

“The 2020 Feedstock Agreement facilitates Hawaii Gas’ fuel diversification strategy with the State’s clean energy goals by allowing the introduction of locally produced and cleaner burning fuels, such as RNG.” *Application* at 12.

The SEO possesses unique expertise, past involvement, and standing on matters related to the State’s clean energy goals, GHG analysis, and fuel supply security.

HRS section 225P-1 states that to protect the State's economy, environment, health, and way of life, the State will mitigate its greenhouse gas emissions by sequestering more atmospheric carbon and greenhouse gases than the State produces as quickly as practicable, but no later than 2045.

The SEO’s CEO is specifically directed, by statute, to be engaged in discussions such as these at the Public Utilities Commission. Per HRS 196-72 (d), “[s]ubject to the approval of the governor, the chief energy officer shall: ... (6) [c]reate and review proposed state actions that may have a significant effect on the State's energy and decarbonization goals, report to the governor their effect on the energy program, and perform other services as may be required; [and] ... (13) [a]dvocate for the State's energy and decarbonization goals at relevant venues and departments, including but not limited to the public utilities commission, legislature, and division of consumer advocacy, to ensure that state energy policies and regulations align with the state strategic goals and are data-driven....”

In relation to fuel supply security, HRS 196-72 (d) directs the CEO to “(9) [d]evelop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets, both in-state and in other states and countries, particularly in relation to the State's economy, and to recommend, develop proposals for, and assess the effectiveness of policy and regulatory decisions, and energy emergency planning; [and] (10) [d]evelop and recommend programs for, and assist public agencies in the implementation of, energy assurance and energy resilience....”

The SEO is the primary and coordinating agency for State Emergency Support Function #12 – Energy (SESF-12), which provides support by coordinating government capabilities, services, technical assistance, and engineering expertise during disasters and incidents that require a coordinated response. The term “energy” is defined as producing, storing, refining, transporting, generating, transmitting, conserving, building, distributing, maintaining, and controlling energy systems and system components.

The SEO has a clear interest in and will provide value to the proceeding as the representative of the State’s energy policy objectives and public good, and therefore seeks to participate without intervention in this proceeding pursuant to Hawaii Administrative Rules §16-601-56 on the following grounds.

**1. Clear and concise statement of the SEO’s direct and substantial interest in this docket.**

The SEO’s CEO is directed, by statute, to advocate for state energy policies at the Public Utilities Commission relating to decarbonization, energy assurance, and resilience, which are central issues impacted by the Application. These obligations, identified in HRS 196-72(d)(6), (9), (10), and (13), provide the SEO’s direct and substantial interest in the subject matter of this docket. The significant statewide demand destruction across all major petroleum products due to COVID-19 has resulted in unprecedented oversupply and historically low

production conditions at energy supply facilities, creating unknown and uncertain system supply & demand, production logistics, and response and recovery capabilities. The outcome of this Application has the potential to materially change the energy supply mix, sourcing, and delivery throughout the State.

**2. SEO's position regarding the matter in controversy.**

The SEO has a specific interest in ensuring that the statutory objectives of the State for both decarbonization and energy assurance are met. The Application has broader ramifications, given that the outcome of the Application could influence the ongoing operations of the refinery, which has cascading impacts on GHG emissions and fuel supply security throughout Hawaii.

**3. The extent to which the participation will not broaden the issues or delay the proceeding.**

The SEO does not intend to broaden the issues or delay this proceeding, since to do so would be against its own interests and contrary to its obligations. The SEO is aware that the schedule included within the Application creates significant challenges to complete the necessary due diligence and analyses required to satisfy statutory obligations. The SEO's interest is that these statutory requirements and state policy goals are observed in due consideration of the time sensitivities of the Application.

**4. The extent to which the SEO's interest will not be represented by existing parties.**

The existing parties to this proceeding are the Applicant, the Companies and the Consumer Advocate. The parties are cognizant of the fact that the interests of the Applicant and the Companies are different and are not perfectly aligned with the interests of the SEO.

The Consumer Advocate may have positions that are similar to some of those of the SEO, but this does not assure adequate protection or representation of the SEO's broader statutory interests. The statutory responsibility of the Consumer Advocate under section 269-51, HRS, requires it to "represent, protect, and advance the interest of consumers of utility services" (emphasis added). The SEO represents a broader perspective, and its positions may be different from solely the interest of consumers of utility services. The SEO's interests go beyond representing only consumers, and as the Consumer Advocate's role is statutorily limited to that group, the Consumer Advocate cannot fully represent the SEO regarding the full range of issues before the Commission in this proceeding, nor should it be expected to.

**5. A statement of the expertise, knowledge, or experience that the SEO possesses with regard to the matter in controversy.**

The SEO submits that its expertise in energy planning, analysis, and knowledge of energy markets will assist the Commission and the parties in this docket by providing relevant studies, surveys, and other information related to institutional, policy, financial, and other issues. The SEO is the primary and coordinating agency for SESF-12, which provides unique insights into the logistical challenges of energy supply throughout the State. The SEO led the Hawaii Refinery Task Force, which was established by Executive Order in 2013 to assess the impacts of changes in Hawaii's refinery capacity and provide advice and recommendations on matters involving a future fuels ecosystem. The resulting reports concluded that one or both of the State's refineries were likely to close by 2020 and emphasized maintaining access to and making improvements to critical fuels infrastructure, particularly the import infrastructure needed to sustain supply should one or both refineries close.

The SEO is statutorily tasked with, and the CEO is responsible for, advocating for the State's energy and decarbonization goals at relevant venues and departments, including but not

limited to the Public Utilities Commission. Energy is the predominant source of GHG emissions in the State, and Par supplies petroleum products for gas feedstock, electric generation, ground transportation, and aviation. The SEO has expertise in the interdependencies of these sectors, which will be relevant to assessing the GHG impacts of the proposed contract. To supplement its internal resources and expertise, the SEO may contract for or seek additional expertise as needed.

**6. Whether the SEO can aid the commission by submitting an affirmative case.**

Given the totality of the circumstances, and with due regard to the issues that will be addressed in this proceeding, the SEO concludes that it has both unique and important information and arguments to offer in this docket. The SEO actively plays a role in energy assurance through its role as the primary and coordinating agency for SESF-12, which can provide unique perspectives on fuel supply security from the perspective of operations in both blue and grey skies scenarios. As statutorily directed through HRS section 196-72, the CEO shall “(9) [d]evelop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets, both in-state and in other states and countries, particularly in relation to the State's economy, and to recommend, develop proposals for, and assess the effectiveness of policy and regulatory decisions, and energy emergency planning.” The perspectives the SEO will provide on the central role that the refinery plays in the energy supply chain in Hawaii and potential cascading impacts will be material from both a GHG analysis and fuel supply security perspective.

**7. A statement of the relief desired.**

The SEO would like due consideration to be given to the implications of the Application, including potential alternatives and ramifications on energy supply in Hawaii. An



assessment of the Application and alternatives, including cascading impacts, should be assessed in terms of the State's clean energy goals, GHG analysis, and fuel supply security.

Therefore, and in conclusion, as issues arise in this proceeding for which the SEO has expertise and information to contribute to the discussion, it seeks Commission approval to contribute as time and resources permit. To this end, the SEO respectfully requests that it be granted status as a participant without intervention in this proceeding so that it may provide support on subject matters related to its statutory obligations.

DATED: Honolulu, Hawaii, October 21, 2020.

/s/ Scott J. Glenn

SCOTT J. GLENN

Chief Energy Officer  
Hawaii State Energy Office

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Motion To Participate without Intervention by the Hawaii State Energy Office in PUC Docket Number 2020-0158, upon the PUC and the following parties, by electronic mail service.<sup>2</sup>

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<sup>2</sup> As stated in Order No. 37043 Setting Forth Public Utilities Commission Emergency Filing and Service Procedures related to COVID-19 (non-docketed), issued on March 13, 2020 at 11.

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